

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2
3 Wristen-Mooney, et al.,

4 Petitioners,

Case No. 05-2-0020

5 v.

6 Lewis County,

ORDER FINDING COMPLIANCE

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8 Respondent.
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11 THIS Matter came before the Board upon a compliance hearing held on June 28, 2007. On
12 May 25, 2007, the County filed Lewis County's Compliance Report with the Board. By letter
13 dated June 5, 2007, Petitioners informed the Board that they had no objection to a finding of
14 compliance.
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16 A compliance hearing was held telephonically on June 28, 2007. Chief Civil Deputy
17 Prosecuting Attorney Douglas Jensen appeared for Lewis County. Eugene Butler and
18 Richard Battin appeared for Petitioners. All three board members attended, Margery Hite
19 presiding.
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22 **DISCUSSION**

23 To achieve compliance in this case, the County adopted Ordinance No. 1179P on May 21,
24 2007. In its Order on Compliance, December 29, 2006, the Board found two areas of
25 noncompliance with respect to the County's development regulations for fully contained
26 communities, LCC 17.20.051. Those two areas of noncompliance were:
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28 Conclusion of Law C: LCC 17.20.051 fails to comply with RCW 36.70A.350 because
29 there is no requirement in LCC 17.20.051 that there be an allocation of population from
30 an urban community reserve to the new fully contained community.

31 Conclusion of Law G: The adoption of the flow chart in LCC 17.20.051 is noncompliant
32 with RCW 36.70A.070 and 36.70A.280(1)(a) because it is inconsistent with the other

County code provisions and RCW 36.70A.280(1) which direct SEPA appeals of comprehensive plans and development regulations to the growth boards.

Ordinance No. 1179P amends LCC 17.20.051 to require an allocation from the urban population reserve and rescinds the flow chart. These changes remove the noncompliant elements from LCC 17.20.051.

Findings of Fact

1. Lewis County is a county located west of the crest of the Cascade Mountains that is required to plan pursuant to RCW 36.70A.040.
2. Petitioners filed the original petition for review in this case challenging the adoption of Ordinance 1179J.
3. LCC 17.20.051 was found not to comply with RCW 36.70A.350 in this Board's Order on Compliance on December 29, 2006 "because there is no requirement in LCC 17.20.051 that there be an allocation of population from an urban community reserve to the new fully contained community". Conclusion of Law C.
4. LCC 17.20.051 was found not to comply with RCW 36.70A.070 and 36.70A.280(1)(a) in this Board's Order on Compliance on December 29, 2006 "because it is inconsistent with the other County code provisions and RCW 36.70A.280(1) which direct SEPA appeals of comprehensive plans and development regulations to the growth boards".
5. The County adopted Ordinance No. 1179P on May 21, 2007.
6. Ordinance No. 1179P amends LCC 17.20.051 to require an allocation from the urban population reserve as part of the approval of an application for a fully contained community.
7. Ordinance No. 1179P rescinds the flow chart previously adopted as part of LCC 17.20.051.
8. Petitioners have no objection to a finding of compliance based on the adoption of Ordinance No. 1179P.

Conclusions of Law

- A. This Board has jurisdiction over the parties and the subject-matter of this case.
- B. Ordinance 1179P was adopted by the Lewis County Commissioners on May 21, 2007 to achieve compliance on those issues on which noncompliance was found in the December 29, 2006 Order on Compliance issued in this case.

1 C. Ordinance No. 1179P complies with RCW 36.70A.350 as to an allocation of
2 population for fully contained communities from an urban population reserve.

3 D. Ordinance No. 1179P complies with RCW 36.70A.070 and 36.70A.280(1)(a) as to
4 consistency and SEPA appeals of applications for fully contained communities.
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6 **ORDER**

7 Having found that Ordinance No. 1179P as it amends LCC 17.20.051 COMPLIES with
8 RCW 36.70A.350, 36.70A.070 and 36.70A.280(1)(a), the Board hereby orders this case
9 CLOSED.
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11 Entered this 10th day of July 2007.
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14 _____
15 Margery Hite, Board Member
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19 Holly Gadbow, Board Member
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23 James McNamara, Board Member
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26 Pursuant to RCW 36.70A.300 this is a final order of the Board.
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28 **Reconsideration.** Pursuant to WAC 242-02-832, you have ten (10) days from the date
29 of mailing of this Order to file a petition for reconsideration. The original and three
30 copies of a motion for reconsideration, together with any argument in support
31 thereof, should be filed with the Board by mailing, faxing, or otherwise delivering the
32 original and three copies of the motion for reconsideration directly to the Board, with
a copy to all other parties of record. **Filing means actual receipt of the document at
the Board office.** RCW 34.05.010(6), WAC 242-02-240, and WAC 242-02-330. The filing

1 of a motion for reconsideration is not a prerequisite for filing a petition for judicial
2 review.

3 **Judicial Review.** Any party aggrieved by a final decision of the Board may appeal the
4 decision to superior court as provided by RCW 36.70A.300(5). Proceedings for
5 judicial review may be instituted by filing a petition in superior court according to the
6 procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil
7 Enforcement. The petition for judicial review of this Order shall be filed with the
8 appropriate court and served on the Board, the Office of the Attorney General, and all
9 parties within thirty days after service of the final order, as provided in RCW
10 34.05.542. Service on the Board may be accomplished in person or by mail, but
11 service on the Board means actual receipt of the document at the Board office within
12 thirty days after service of the final order. A petition for judicial review may not be
13 served on the Board by fax or by electronic mail.

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Service. This Order was served on you the day it was deposited in the United States
mail. RCW 34.05.010(19)